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# Fax

Name: Examiner - Bernard E. Souw  
Art Unit: 2881  
Organization: US Patent and Trademark Office

From: Michael O. Scheinberg  
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Date: February 3, 2005  
Subject: Petition to Withdraw Finality of Rejection  
Atty. Docket No.: F138  
Pages: 3 (including this coversheet)

APPL. NO.: 10/777,672 ART UNIT: 2881  
APPLICANT: Valery Ray et al. EXAMINER: Bernard E. Souw  
FILING DATE: February 11, 2004  
TITLE: Determining End Points During Charged Particle Beam Processing

In connection with the above-identified patent application, applicant submits the following:

1. Petition to Withdraw Finality of Rejection (2 p.)

Michael O. Scheinberg  
Patent Reg. No.: 36.919

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/777,672                      Art Unit: 2881  
Filing Date: 02/11/2004                      Examiner: Bernard E. Souw  
Inventor(s): Valery Ray, Larry Scipioni and Neil J. Bassom  
Title: Determining End Points During Charged Particle Beam Processing

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO WITHDRAW FINALITY OF REJECTION AS PREMATURE**Point to be Reviewed

Whether the January 25, 2005 Final Rejection is properly made final.

Statement of Facts

In an October 19, 2004 rejection, the Examiner rejected claims 14-29 for anticipation and claims 1-13, 24, 29 for obviousness. Claim 14 was rejected for indefiniteness.

Applicant filed a December 20, 2005 Amendment that apparently overcame the anticipation rejection of claims 14-29. In the January 25, 2005 Final Rejection, claims 14-29 are rejected for obviousness, which is a new ground for rejection with respect to claims 14-23 and 24-28.

This new grounds for rejection was not necessitated by applicants' amendment or by an Information Disclosure Statement submitted by applicant field during the period set forth in 37 CFR 1.97(c). See MPEP 706.07(a). Independent claim 14 and dependent claim 17

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I hereby certify that this correspondence is being facsimile transmitted to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

On:

February 9, 2005

By:

Margarita M. Escalona

Name: Margarita Márquez-Escalona

*Attorney Docket No.: F138*

were amended to change "the" to "a" to overcome an indefiniteness problem. Independent claim 20 and its dependents were not amended at all.

Thus, the Examiner has introduced a new ground of rejection that was not necessitated by applicants' amendment, and applicants should have an opportunity to amend, argue, or submit evidence of non-obviousness to overcome this new grounds of rejection before receiving a final rejection.

Action Requested

Applicants request that the finality of the rejection be withdrawn.

Timely Filed

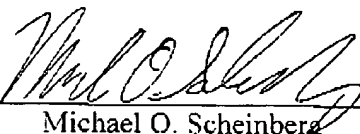
This petition is being filed within two months of the action being petitioned

Fee

The Commissioner is hereby authorized to charge the petition fee to Deposit Account No. 50-1635. A duplicate copy of this authorization is attached.

Respectfully submitted,

2/9/05  
Date

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